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ORDER 2001-10-4

SERVED: October 16, 2001



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation
on the 16th day of October, 2001

In the matter of the revocation of the interstate
scheduled passenger certificate issued to

PRO AIR, INC.

in accordance with section 204.7 of the
Department's Regulations

Docket OST-96-1075 -21

ORDER REVOKING CERTIFICATE

Pro Air, Inc., holds certificate authority under 49 U.S.C. 41102 to engage in interstate scheduled air transportation of persons, property, and mail.¹ The company conducted operations under its certificate authority until September 18, 2000, when it ceased all operations. Section 204.7 of the Department's Aviation Economic Regulations (14 CFR 204.7) provides that, if a carrier ceases conducting the operations for which it was found fit, willing and able, its authority to conduct such operations is automatically suspended. As a result of its cessation of operations, in accordance with section 204.7 of our rules, Pro Air's authority was automatically suspended.²

Section 204.7 also provides that the authority granted to an air carrier shall be terminated if the carrier has not operated for a one-year period under any authority for which it was found fit. Under this provision, Pro Air had until September 18, 2001, to resume operations or lose its authority for reason of dormancy.

While, at various times during the past year, Pro Air had indicated that it intended to resume operations in the near future, at no time during this period did the carrier file a formal notification of its intent to resume operations,³ nor did it supply the information

¹ See Order 98-7-6, issued July 8, 1998. This order reissued to Pro Air the interstate scheduled passenger certificate previously issued to it by Order 97-6-11.

² The company was notified of this suspension by letter dated September 20, 2000.

³ On May 3, 2001, Pro Air's counsel sought guidance on the level of funding that would be needed in order for Pro Air to meet our financial fitness criteria and on the type of aircraft restrictions the Department would be likely to impose. While staff members of the Air Carrier.

required for a redetermination of its fitness.⁴ Further, on September 28, 2001, Pro Air's Chapter 11 Bankruptcy case was converted to Chapter 7, and, on October 2, 2001, Pro Air surrendered to the FAA its Air Carrier Certificate.

As a result, on October 11, 2001, and in accordance with section 204.7 of our rules, we advised the Chapter 7 Trustee for Pro Air of our intent to revoke Pro Air's section 41102 certificate for reason of dormancy.

ACCORDINGLY, Acting under authority assigned by the Department in its regulations, 14 CFR 385.12.

1. We revoke the interstate charter section 41102 certificate last reissued to Pro Air, Inc., by Order 98-7-6, for reason of dormancy.⁵
2. We will serve a copy of this order on the persons listed in Attachment A.

Persons entitled to petition the Department for review of this order under the Department's Regulations, 14 CFR 385.30, may file their petitions within 10 days of the service date of this order.

The action taken in this order shall be effective immediately and the filing of a petition for review shall not alter its effectiveness.

By:

RANDALL D. BENNETT
Director
Office of Aviation Analysis

(SEAL)

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<http://dms.dot.gov>*

Fitness Division discussed these issues with Pro Air's counsel, no notice to resume was subsequently filed.

⁴ Neither did Pro Air file any request for an exemption from the revocation-for-dormancy provisions of our rules.

⁵ Our action here is without prejudice to the company's filing for new certificate authority in the future.

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